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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,172	06/14/2001	Christoph Foth	08920 - US	6781

7590

07/31/2002

Deere & Company
One John Deere Place
Moline, IL 61265-8098

EXAMINER

KOVACS, ARPAD F

ART UNIT

PAPER NUMBER

3671

DATE MAILED: 07/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/881,172

Applicant(s)

Foth

Examiner

Árpád Fábián Kovács

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jun 14, 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 6 6) ☐ Other:

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DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 1/8/2002 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the mechanism required to operate guide vanes in such a way that, the vanes can be positioned as a function of the "wind direction" (claim 11, line 2; claim 14, line 2) and "inclination of the ground" (claim 12, line 2, claim 15, line 2) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

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Specification

3. The disclosure is objected to because of the following informalities: on page 5, paragraph 23, line 6 “vanes 62” should be -- vanes 64 --.

Appropriate correction is required.

4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Objections

5. Claims 11 & 14 are objected to because of the following informalities: a -- . -- needed at the end of sentence in line 2 Appropriate correction is required.

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Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim(s) 11-12, 14-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 11-12 and 14-15, recite functions of “vanes can be positioned as a function of” “the wind direction” (claims 11, 14) and “the inclination of the ground” (claims 12, 15), however the claim does not recite an apparatus (for example, “an apparatus for” or “means for”) which would make the mentioned functions possible; therefore the claim is indefinite and unclear.

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Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claim(s) 1-8, 11-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Baumgarten et al (5569081).

In re independent claims 1, 13, as best could be understood from the claims, Baumgarten discloses a chopper and distribution device supported by frame of an agricultural combine used for typical harvester threshing/separating and distributing operation (fig 1 & 6), the distribution device comprising:

guiding vanes (plates ref 32);

a drive (35) operatively coupled to the guide vanes continuously move the vanes back and forth (as shown on fig 5; and/or fig 2, refs 35A or 35B);

in re claim 2, the drive pivots the vanes about a vertical axis (32A);

in re claim 3, the guide vanes are arranged transversely alongside each other and are connected to the drive (see fig 2-3; col 3, lines 35-40);

in re claim 4, the vanes are pivoted back and forth by an element (36) which is rotated by the drive;

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in re claim 5, a connecting rod that extends between the guide vanes (the rod which extends between the struts 33A-B and the element as best shown on fig 3) and a pin located in a hole in the element (a radially extending slot/aperture/hole at pin or fixing screw 36B as shown on fig 3);

in re claim 6, the hole of the element is a radially extending elongated hole (as shown on fig 3 at pin/screw 36B) and the pin can be locked in the elongated hole in various radial positions (by definition screw 36B allows to be locked, and also see col 3, lines 62-63);

in re claim 7, the guide vanes are connected to a strut (33A-B) which in turn is connected to the connecting rod (see fig 3), the guide vans can be locked to the strut so that the guide vanes can be repositioned (the vanes are locked to the struts, and the vanes can be repositioned as in col 3, lines 35-40);

in re claim 8, the guide vanes are connected over a connecting element with the strut (as best shown on fig 3, at connecting points to the strut), the distributing device is provided with a housing (31) having a top wall with an upper surface, the vanes are in sliding contact with the upper surface of the top wall (as best shown on fig 4, at ref 32);

in re claims 11-12, 14-15, the guide vanes can be positioned as a function of the wind direction or inclination of the ground (one such device is disclosed at ref 40).

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10. Claim(s) 1-3, 10-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Boehm et al (4218022).

In re independent claims 1, 13, as best could be understood from the claims, Boehm discloses an agricultural combine, having inherently the typical parts, such as frame, threshing & separating of grain from straw and straw chopper (12), as disclosed in col 1, lines 11-20; the distributing device comprising:

guide vanes (plates 60), a drive operatively coupled to the guide vanes continuously move the vanes back and forth in a transverse direction (or any desired adjustment positions, as disclosed in col. 2, lines 61-68, col 3, lines 81-21) ;

in re claim 2, the vanes pivot about a vertical axis (64);

in re claim 3, the guide vanes are arranged transversely alongside each other and are connected to the drive (see fig 1, connected by trunnions ref 62);

in re claim 10, the guide vanes is provided with a diffusor (for example ref 76);

in re claims 11-12, 14-15, the guide vanes can be positioned as a function of the wind direction or inclination of the ground, because of the aperture ref 70).

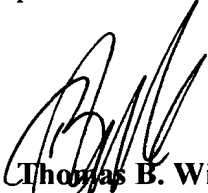
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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Matousek et al., Zacharias, Kersting et al., Schmitt et al., Guinn et al., Gauthier, Howell et al., Hetteen, Hetteen (416), Adams, Elofson, Dannigkeit show closely related arts to applicant's invention.

Any inquiry concerning this communication should be directed to Árpád Fábíán Kovács at telephone number (703) 308-5897, or in my absence contact Thomas B. Will whose telephone number is (703) 308-3870.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113. The fax phone number for the Group is (703) 305-3597.


Thomas B. Will
Supervisory Primary Examiner
GROUP 3671

áfk/ÁFK
July 27, 2002